A BILL FOR AN ACT

RELATING TO ON-SITE CHILDHOOD FACILITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that Hawaii has one of the highest costs for child care in the nation. The annual tuition cost of child care facilities in Hawaii exceeds the maximum annual in-state tuition at the University of Hawaii at Manoa. In Hawaii, forty-three per cent of a single parent's income is dedicated to care for one child. For two children, it is seventy-one per cent. Married parents of two children living at the poverty line pay seventy-eight per cent of their income for center-based child care. Not surprisingly, in many families, one parent will leave the workforce to care for their children on a full-time basis instead of enrolling the children in child care.

The legislature further finds that more of Hawaii's children are entering kindergarten without the physical, cognitive, linguistic, social, motor, and emotional skills necessary to prepare them for success in school life. The link between school readiness and success in school is indisputable.
According to kindergarten teachers within the department of education, many of the children who do not attend pre-kindergarten programs could be eighteen to twenty-four months behind developmentally than their peers who do attend preschool.

The legislature also finds that the creation of on-site early childhood facilities by employers addresses concerns of child care costs while also providing access to early childhood learning programs. According to a study in the Journal of Managerial Psychology, employers who create on-site early childhood facilities found lower absenteeism and higher productivity in their employees because parents feel at ease when they do not have to worry about their children.

The purpose of this Act is to establish an income tax credit for employers who create on-site early childhood facilities to increase access to high quality early childhood programs from child care to preschool and junior kindergarten, like the federal employer-provided child care credit stated in Internal Revenue Code §45F.

SECTION 2. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:
"§235- On-site early childhood facility tax credit. (a)

There shall be allowed to each taxpayer subject to the taxes imposed by this chapter, an income tax credit that shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed.

In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for qualified costs incurred by the entity for the taxable year. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined pursuant to §704(b) of the Internal Revenue Code.

(b) Every taxpayer claiming a tax credit under this section, no later than ninety days following the end of each taxable year in which the qualified costs were paid or incurred, shall submit a written, sworn statement to the department of human services, identifying:

(1) Qualified costs, if any, paid or incurred in the previous taxable year; and

(2) The amount of tax credits claimed pursuant to this section, if any, in the previous taxable year.
(c) The department of human services shall:

(1) Maintain records of the names and addresses of the taxpayers claiming the credit under this section and the total amount of the qualified costs upon which the tax credit is based;

(2) Verify the amount of the qualified costs;

(3) Total all qualified costs that the department of human services certifies; and

(4) Provide a letter to the director of taxation specifying the amount of tax credit for each taxable year and cumulative amount of the tax credit for all years claimed.

Upon each determination made under this subsection, the department of human services shall issue a letter to the taxpayer verifying the information submitted to that department, including the amount of qualified costs and the credit amount qualified for in each taxable year a credit is claimed. The taxpayer shall file the letter from the department of human services with the taxpayer's tax return with the department of taxation. Notwithstanding the authority of the department of human services under this section, the director of taxation may
audit and adjust the tax credit amount to conform to the
information filed by the taxpayer.

(d) The department of human services shall provide a
certificate of approval to qualified on-site early childhood
facilities implemented by taxpayers. In determining whether to
grant approval to an on-site early childhood facility, the
department of human services shall consider the following
criteria:

(1) Whether the on-site early childhood facility provides
early childhood programs from child care to preschool
and junior kindergarten;

(2) Participation rate by employees;

(3) Quality of the early childhood programs being provided;
and

(4) Whether the presence of an on-site early childhood
facility promotes a healthy workplace environment.

The director of human services shall adopt rules pursuant to
chapter 91 to implement the certification requirements under
this section.
(e) The director of human services, in consultation with the director of taxation, shall create a form that indicates a taxpayer is using an on-site early childhood facility.

(f) The tax credit shall be equal to twenty-five per cent of the taxpayer's qualified costs, subject to the following:

1. The total credit allowed for a single taxpayer in any taxable year shall not exceed $ ; and

2. The total amount of tax credits allowed under this section shall not exceed $ for all taxpayers in any fiscal year. If the total amount of credits claimed under this section by all taxpayers in any fiscal year exceeds $ , the department of human services shall immediately discontinue issuing letters under subsection (c) and notify the department of taxation. In no instance shall the department of human services issue letters under subsection (c) for a total amount of credits exceeding $ per fiscal year. To comply with this restriction, the department of human services shall issue letters under subsection (c) for credits on a first come, first served basis. Any taxpayer that incurs qualified
costs but is not issued a letter under subsection (c) by the department of human services in a fiscal year due to the $_____ cap of having been exceeded for that fiscal year, shall be eligible for issuance of the letter under subsection (c) based on those qualified costs in the subsequent year and those qualified costs shall receive priority for a letter under subsection (c) over qualified costs incurred in that year. The department of taxation shall not allow the aggregate amount of credits claimed to exceed $_____ per fiscal year.

(q) Any credit under this section shall be recaptured if:

(1) The on-site early childhood facility fails to operate for a minimum of ten years; provided that the credit shall not be subject to recapture if the department of human services certifies that the employer ceased operating the facility for reasonable cause, including but not limited to going out of business, being forced to close the facility due to the natural disaster or other unforeseeable circumstances, and closing the facility temporarily with the intention of reopening
it for reasons such as facility refurbishment or
improvement; or
(2) The credit was claimed for acquiring, constructing, or
establishing a facility that is not certified under
subsection (d) within one hundred eighty days of the
completion of its acquisition, construction, or
establishment.

The recapture shall be equal to one hundred per cent of the
amount of the total tax credit claimed under this section in the
preceding ten taxable years and shall be added to the taxpayer's
tax liability for the taxable year in which the recapture occurs
pursuant to this subsection.

(h) If the tax credit under this section exceeds the
taxpayer's net income tax liability, the excess of credits over
payments due shall be refunded to the taxpayer; provided that no
refunds or payments on account of the tax credits allowed by
this section shall be made for amounts less than $1.

(i) Every claim, including amended claims, for the tax
credit under this section shall be filed on or before the end of
the twelfth month following the close of the taxable year for
which the tax credit may be claimed. Failure to comply with the
foregoing provision shall constitute a waiver of the right to claim the credit.

(j) No taxpayer shall claim any other credit under this chapter for the same qualified costs used to properly claim a tax credit under this section for the taxable year.

(k) The director of taxation:

(1) Shall prepare any forms that may be necessary to claim a tax credit under this section;

(2) May require the taxpayer to furnish reasonable information to ascertain the validity of the claim for the tax credit made under this section; and

(3) May adopt rules pursuant to chapter 91 to effectuate the purposes of this section.

(l) This section shall not apply to any amount paid or incurred before January 1, 2020.

(m) For the purposes of this section:

"Qualified costs" means the expenses incurred in acquiring, constructing, and establishing a qualified on-site early childhood facility and the associated operating costs; provided that the qualified costs shall not include costs paid or incurred for insurance.
"Qualified on-site early childhood facility" means an on-site early childhood facility offered by an employer to all employees that:

(1) Is licensed and approved by the department of human services; and

(2) Receives an accreditation from a recognized national early childhood accredited agency within two years of initial operation."

SECTION 3. There is established one full-time equivalent (1.0 FTE) on-site early childhood facility coordinator position in the executive office on early learning to assist with licensure and accreditation requirements, works with providers, and ensure appropriate facility design of on-site early childhood facilities established by employers in the State.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of $_______ or so much thereof as may be necessary for fiscal year 2019-2020 for one full-time equivalent (1.0 FTE) on-site early childhood facility coordinator position in the executive office on early learning to assist with licensure and accreditation requirements, work with providers, and ensure appropriate facility design of on-
site early childhood facilities established by employers in the State.

The sum appropriated shall be expended by the department of education for the purposes of this Act.

SECTION 5. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2019; provided that section 2 shall apply to taxable years beginning after December 31, 2019.
Report Title:
On-site Early Childhood Facilities; Income Tax Credit; Appropriation

Description:
Establishes an income tax credit for employers who create on-site early childhood facilities. Establishes and appropriates funds for one on-site Early Childhood Facility Coordinator position.

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